

IN THE SUPREME COURT OF FLORIDA

INQUIRY CONCERNING A JUDGE
No. 04-239

CASE NO. SC05-851

JUDGE RICHARD H. ALBRITTON, JR.

STIPULATION

In this disciplinary proceeding, the Investigative Panel of the Florida Judicial Qualifications Commission (hereinafter the “JQC”) and Circuit Court Judge Richard H. Albritton, Jr. (hereinafter “Judge Albritton”) present the following Stipulation to this Court, pursuant to Article V, Section 12 of the Florida Constitution and Rule 6(j) of the JQC’s Rules as amended.

1. Under Rule 6(j), the Investigative Panel “may reach agreement with a judge on discipline or disability, and such stipulation shall be transmitted by it directly to the Supreme Court to accept, reject or modify in whole or in part.”

2. A Notice of Investigation was served on Judge Albritton on October 20, 2004. A hearing before the Investigative Panel was held in Tampa, Florida on February 11, 2005, at which Judge Albritton appeared and testified.

3. A Notice of Amended Formal Charges was filed by the Investigative Panel and served on Judge Albritton on September 1, 2005. Judge Albritton answered the Amended Formal Charges on September 26, 2005.

4. After an extensive review of the record, including the documentary evidence, the February 11, 2005 hearing transcript, as well as Judge Albritton's Answer and deposition testimony of some of the JQC's and Judge Albritton's witnesses, the Investigative Panel respectfully submits that the interests of justice and sound judicial administration are best served by entering into this Stipulation and the Findings and Recommendations which accompany this Stipulation.

5. Judge Albritton has served as a Circuit Court Judge in the Fourteenth Judicial Circuit of Florida since January 2001.

6. Judge Albritton admits the following conduct, and the judicial impropriety of that conduct.

a. Charge 4: At various times between February 2003 and February 2004, during breaks in trials, Judge Albritton entered and sat in the public defender's office in the Jackson County Courthouse in his robe.

b. Charge 5: In or about February 2003 to February 2004, Judge Albritton required, as a condition of probation, that a defendant attend church. When advised by the staff attorney that this was unconstitutional, Judge Albritton responded, "I know that's unenforceable, but the defendant doesn't know it."

c. Charge 9: Judge Albritton was often late to hearings and trials in the past.

d. Charge 11: During a hearing in In the Interest of Angel Pope, Jackson County Case No. 2002-136-CJ, on September 4, 2002, Judge Albritton put a young mother in a holding cell for most of the day because she could not recall or would not relate her address.

e. Charge 22: When Judge Albritton first went on the bench, he met with Department of Children and Families (hereinafter “DCF”) personnel in Panama City, Florida, so they could get to know him. Judge Albritton offered everyone coffee except Ms. Melissa Bowers Long. Judge Albritton offered Ms. Long milk, saying it was because she was so young.

f. Charge 24: In dependency cases, when a parent came before Judge Albritton, he would sometimes ask the person if they were using drugs and if the person said “no,” Judge Albritton might order a drug test on the spot. If the test came back positive, Judge Albritton would hold the person in contempt and have them immediately jailed.

g. Charge 25: Judge Albritton would occasionally ask Attorney John Young Roberts about hunting. Judge Albritton stated that during the Fall of 2004, he would like to go hunting with Mr. Roberts and Mr. Roberts said that would be fine. Judge Albritton then asked if Mr. Roberts was available that weekend and Judge Albritton went hunting with Mr. Roberts.

h. Charge 26: Judge Albritton asked Mr. Roberts if he was a friend of the person that held a Christmas party. Mr. Roberts said he was, and Judge Albritton asked if Mr. Roberts could get an invitation to the party. On the date of the party, Judge Albritton's assistant called Mr. Roberts to ask if he could fax the invitation to Judge Albritton. Mr. Roberts did so, and Judge Albritton attended the Christmas party.

i. Charge 27: Sometime during the Spring of 2004 during a recess while getting coffee, Judge Albritton told Mr. Roberts that he was leaving Jackson County to go to Bay County. Judge Albritton continued by stating the he enjoyed his time in Jackson County and wanted to see everyone in Jackson County and told Mr. Roberts to throw him a party. Judge Albritton said he wanted the party at the friend's house where Judge Albritton had gone to the Christmas party. Mr. Roberts did nothing.

j. Charge 29: In or about the Spring of 2004, Elizabeth Milton Simpson, Esquire, was in Judge Albritton's court when he called her up to the bench. Judge Albritton stated, to the effect, "You heard they're giving me a party. We need people to donate money and you need to give \$100 to Jerry Glass (an investigator for the public defender)." A day or so later while in court, Judge Albritton mentioned the money to Ms. Simpson. Ms.

Simpson then wrote a check, payable to Jerry Glass, gave it to Mr. Glass and told him to make sure he told Judge Albritton she had paid.

k. Charge 30: In or about January 2005, Judge Albritton asked Attorney Stephanie Shimer and Attorney Elizabeth Milton Simpson to go to lunch with him. In the case of Taylor Dumas, Case No. 03-06, Judge Albritton had ordered the DCF to directly pay defense Attorneys Shimer and Simpson as opposed to the county paying the legal bills, as Judge Albritton did not like the case DCF had brought. At lunch, Judge Albritton said words to the effect of, "I need you to put this language in your motion and I want you to draft an order saying this," and then Judge Albritton said what he wanted in the order. Judge Albritton insisted he wanted Ms. Shimer and Ms. Simpson to write it down, so Ms. Shimer did so. The motion was filed and Judge Albritton issued the order.

l. Charge 31: During court one day, Judge Albritton said, "Ms. Simpson, are you taking us to lunch today?" Ms. Simpson said she responded, "I guess so," and about eight people went to lunch. Ms. Simpson said the bill came to just under \$100.00, which she paid.

m. Charge 33: Wade Mercer, Esquire, appeared in a dependency case and after the dependency case was concluded, Judge Albritton said he wanted to talk with Mr. Mercer. Mr. Mercer went into Judge Albritton's

chambers and Judge Albritton told Mr. Mercer he was concerned that in the hearing there was an objection Judge Albritton thought Mr. Mercer should have made. Judge Albritton continued, “I intend for DCF to prove their case.”

n. Charge 36: On or about June 15, 2004, at the party for Judge Albritton, Jerry Glass, investigator for the Public Defender’s office, presented Judge Albritton with a gift certificate for \$150.00 from Wal-Mart from the party contributors.

7. In mitigation of the charges set forth herein, Judge Albritton offers the following explanations:

a. Charge 9: With regard to Judge Albritton’s tardiness, it was often a function of his judicial assignments, including emergency shelter hearings, which must be heard within twenty-four (24) hours of the child’s removal from the home.

b. Charge 11: Concerning the matter of Angel Pope, Judge Albritton’s actions were predicated upon concerns that the young lady was not capable of safely getting home at that time due to her apparent impaired condition.

c. Charge 22: Judge Albritton provided at his own expense, orange juice, doughnuts, and coffee for the meeting he hosted with the DCF. When Judge Albritton offered Ms. Long milk, he intended his comment to be taken as a good-

natured joke and did not intend to offend Ms. Long. Ms. Long did not indicate any offense was taken.

d. Charge 24: Judge Albritton's actions concerning the use of these drug tests was often taken at the special request of DCF as being in the best interest of the child(ren). Judge Albritton has ceased acting in this fashion.

e. Charge 25: In addition to going hunting with Mr. Roberts on the occasion referenced, Judge Albritton also discussed hunting with Mr. Roberts at Judge Albritton's property.

f. Charge 26: Judge Albritton sought an invitation to the referenced Christmas party because he was new to the area and felt that the party would provide him a nice opportunity to meet many local residents.

g. Charge 27: Judge Albritton understood that it was a tradition for a departing judge to be provided a going-away party when he discussed the matter with Mr. Roberts.

h. Charge 29: Shortly after Judge Albritton's actions were questioned with regard to this contribution, he sent Ms. Simpson a check for \$100 reimbursing her, accompanied with his sincere apology. Judge Albritton realizes that his request was inappropriate and he has not directly or indirectly solicited anything since that time.

i. Charge 31: When Ms. Simpson purchased lunch for the group, Judge Albritton's lunch cost approximately \$8. On previous occasions, Judge Albritton had bought Ms. Simpson lunch. However, Judge Albritton reimbursed Ms. Simpson \$100 a short time after the issue was brought to his attention and apologized for any discomfort. Since that time, Judge Albritton ensures he pays his own tabs.

j. Charge 33: Judge Albritton's concerns over the dependency case in issue stemmed from the State's problems with accountability to the courts and the children at that time.

k. Charge 36: Judge Albritton reported the \$150 gift certificate from WalMart which he received as required by statute in a timely fashion. No other honorariums, contributions or other invitations have been accepted by Judge Albritton before or since to avoid any appearance of impropriety.

8. Judge Albritton accepts full responsibility for the conduct set forth below and admits it should not have occurred and regrets and apologizes for such conduct. Clearly, some of Judge Albritton's conduct, which is the subject of these proceedings, results from his conduct off the bench in personal interactions with others. Judge Albritton recognizes the need for a judge to be circumspect in the conduct of his affairs at all times, and he has spent considerable time reflecting upon his conduct as viewed by others.

9. The Investigative Panel and Judge Albritton have reached an agreement on what both believe is the appropriate discipline under the circumstances. Specifically:

- a. a public reprimand;
- b. a one-month unpaid suspension from office;
- c. a five-thousand dollar (\$5,000.00) fine; and
- d. payment of the costs of the JQC.

10. Accordingly the Findings and Recommendations of Discipline have been filed with the Supreme Court with true and correct copies attached hereto for the Court's ready reference. Judge Albritton does not contest the Findings and Recommendations and waives a plenary hearing before the Hearing Panel of the JQC and oral argument before the Supreme Court.

11. The JQC and Judge Albritton acknowledge and understand that this Stipulation and attached Findings and Recommendations of Discipline are subject to the review and approval of the Supreme Court. The JQC and Judge Albritton acknowledge and understand that this Stipulation and Findings and Recommendations of Discipline may be rejected by the Supreme Court, and, in that event, this matter may be returned to the Hearing Panel for a formal plenary hearing. In such event, the JQC and Judge Albritton agree that neither the statements in this Stipulation (or the Findings and Recommendations of

Discipline), nor any of the negotiations related thereto, are admissible for any purpose in the final plenary hearing. The admissions herein are made exclusively for the purpose of resolving this JQC proceeding. The parties agree that this Stipulation is not admissible for any other matter, proceeding or purpose.

12. The JQC and Judge Albritton agree that oral argument before this Court is not necessary in light of the record, the nature of the charges, and the contents of this Stipulation and Findings and Recommendations of Discipline. As noted above, Judge Albritton knowingly and voluntarily waives his right to any further hearings or other proceedings if this Stipulation is accepted.

13. To provide the Court with a full and complete record of this proceeding, filed with the Stipulation and the attached Findings and Recommendations of Discipline are the following materials:

- a. Notice of Investigation (filed under seal);
- b. The transcript of the proceedings before the Investigative Panel on February 11, 2005 (filed under seal);
- c. Notice of Amended Formal Charges; and
- d. Judge Albritton's Answer to Amended Notice of Formal Charges.

14. If this Stipulation is accepted by the Court, the Investigative Panel agrees to dismiss the remaining formal charges contained within the Amended Notice of Formal Charges filed in this cause. The Investigative Panel further

agrees not to pursue any other matters set forth in the Notice of Investigation, which was served on Judge Albritton on October 20, 2004 or the Notice of Investigation that was served on Judge Albritton on December 19, 2005.

DATED this _____ day of May, 2006.

Respectfully submitted,

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